

Montana Water Court
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FILED
01/17/2023
Sara Calkins
CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
43B-0709-R-2022
Lambert, Kathryn
9.00

MONTANA WATER COURT, YELLOWSTONE DIVISION
YELLOWSTONE RIVER ABOVE AND INCLUDING BRIDGER CREEK BASIN
BASIN 43B
PRELIMINARY DECREE

CLAIMANTS: Yellowstone Shields Property LLC

OBJECTORS: Yellowstone Shields Property LLC

CASE 43B-0709-R-2022

43B 194379-00

43B 194380-00

NOTICE OF FILING OF MASTER'S REPORT

This Master's Report was filed with the Montana Water Court on the above stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusion of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must serve a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

MASTER'S REPORT

Yellowstone Shields Property LLC objected to each of these claims. On August 19, 2022 the claimant filed its response providing the requested changes to resolve the objections.

On October 31, 2022 the claimant filed a marked aerial photograph and a response providing additional information. The settlement documents are viewable in the Court's FullCourt Enterprise case management system.

APPLICABLE LAW

A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content pursuant to section 85-2-227, MCA. This prima facie proof may be contradicted and overcome by other evidence that proves, by a preponderance of the evidence, that the elements of the claim do not accurately reflect the beneficial use of the water right as it existed prior to July 1, 1973. This is the burden of proof for every assertion that a claim is incorrect including for claimants objecting to their own claims. Rule 19, W.R.Adj.R.

FINDINGS OF FACT

1. For claim 43B 194379-00, the Preliminary Decree states that the period of diversion and period of use are MAY 15 TO SEPTEMBER 1. The period of diversion and period of use should be JANUARY 1 TO DECEMBER 31.

2. For claim 43B 194380-00, the Preliminary Decree states that the period of diversion and period of use are MAY 15 TO SEPTEMBER 1. The period of diversion and period of use should be JANUARY 1 TO DECEMBER 31.

3. For claim 43B 194380-00, the Preliminary Decree states that the point of diversion and place of use legal descriptions are:

<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
NESWNE	26	IS	10E	PARK
SWSWNE	26	IS	10E	PARK
SESENW	26	IS	10E	PARK
NENESW	26	IS	10E	PARK
NWSESW	26	IS	10E	PARK

The point of diversion and place of use legal descriptions should be:

<u>GOVT LOT</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
7		26	IS	10E	PARK
8		26	IS	10E	PARK
9		26	IS	10E	PARK
	NWNWSE	26	IS	10E	PARK
	N2NESW	26	IS	10E	PARK

CONCLUSION OF LAW

The settlement filed by the claimant is sufficient to contradict and overcome the prima facie claim.

RECOMMENDATIONS

Based upon the above Findings of Fact and Conclusion of Law, this Master recommends that the Court make the changes specified in the Findings of Fact to correct the Preliminary Decree for this Basin. A Post Decree Abstract of Water Right Claim for each claim is served with this Report to confirm the recommended changes have been made in the state's centralized record system.

ELECTRONICALLY SIGNED AND DATED BELOW

Service Via USPS Mail:

Yellowstone Shields Property LLC
c/o Reid Buckley
5 Fox Run
Livingston, MT 59047-9371
925-787-5283 W
rbuckley@orionrenewables.com

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK
BASIN 43B

Water Right Number: 43B 194379-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: YELLOWSTONE SHIELDS PROPERTY LLC
%REID BUCKLEY
5 FOX RUN
LIVINGSTON, MT 59047 9371

Priority Date: APRIL 22, 1922

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: UNNAMED TRIBUTARY OF YELLOWSTONE RIVER

Source Type: SURFACE WATER

SPRING HYDROLOGICALLY RELATED TO SOURCE

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	8	SWNE	26	1S	10E	PARK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

2	9	NWSE	26	1S	10E	PARK
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Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		9	SWNE	26	1S	10E	PARK
2		8	NWSE	26	1S	10E	PARK

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK
BASIN 43B

Water Right Number: 43B 194380-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: YELLOWSTONE SHIELDS PROPERTY LLC
%REID BUCKLEY
5 FOX RUN
LIVINGSTON, MT 59047 9371

Priority Date: APRIL 22, 1922

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Source Name: UNNAMED TRIBUTARY OF YELLOWSTONE RIVER

Source Type: SURFACE WATER
SPRING HYDROLOGICALLY RELATED TO SOURCE

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	7		26	1S	10E	PARK
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
2	8		26	1S	10E	PARK
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
3	9		26	1S	10E	PARK
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
4		NWNWSE	26	1S	10E	PARK
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
5		N2NESW	26	1S	10E	PARK
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
Period of Use: JANUARY 1 TO DECEMBER 31						

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		7		26	1S	10E	PARK
2		8		26	1S	10E	PARK
3		9		26	1S	10E	PARK
4			NWNWSE	26	1S	10E	PARK
5			N2NESW	26	1S	10E	PARK